

5th April, 2023

TIP23/0504/1A

Chief Minister,
Government of Sindh,
CM House,
Karachi

Sub: Complaint on the Allegations of Violation of SPPRA Rules 2010 in the Pre-Qualification by the Project Director/Chief Engineer (FA&SP) PMU, EFAP, W&SD, Government of Sindh Dated: 28-02-2023 in the LOAN No. 4279- PAK (COL), Emergency Flood Assistance Project, ADB/ EFAP/ WSD/PQ-CI/ 2023.

Dear Sir,

Transparency International Pakistan has received a Complaint on the allegations of Violation of Sindh Public Procurement Regulatory Authority (SPPRA Rules 2010) in the Pre-Qualification by the Project Director/ Chief Engineer (FA&SP) PMU, EFAP, W&SD, Government of Sindh Dated: 28-02-2023 in the LOAN No. 4279- PAK (COL), Emergency Flood Assistance Project, ADB/ EFAP/ WSD/PQ-CI/ 2023, through illegal regrouping of works to be procured in different districts of Sindh.

The complainant has made the following allegations that;

1. The Project Director/Chief Engineer (FA&SP) PMU, EFAP, W&SD invited the Pre-Qualification Dated: 28-02-2023 in the LOAN No. 4279- PAK (COL), Emergency Flood Assistance Project, ADB/ EFAP/ WSD/PQ-CI/ 2023.
2. The invitation to Prequalification consists of three categories namely (a) ADB/EFAPANSDIPQ- CI /2023- Category-1 (Small Package Contracts i.e., Estimated Cost up to PKR 2,200 million) (b) ADB/EFAPNVSD/PQ- CII /2023- Category-II (Medium Package Contracts i.e., Estimated Cost up to PKR 3,200 million) (c) ADB/EFAPNVSD/PQ-CIII/ 2023 - Category-III (Large Package Contracts i.e., Estimated Cost upto PKR 4,000 million (**Annex-A**)).
3. The procuring agency requires procurement of works in different districts of Sindh but it has packaged/Regrouped the same with the intention to shorten the bidding competition, in violation of SPPRA Rules 2010.
4. SPPRA Rules 2010, Rule 12 and 13 clearly require that the procuring agency shall not package procurement plan and regroup the proposed procurement.
5. The Project Director/Chief Engineer (FA&SP) PMU, EFAP, W&SD, Government of Sindh has regrouped different development schemes of different districts to give favour to some chosen contractor/firms which discriminates and deprives legal rights of business of other contractors in those districts.
6. The Packages/Regrouped Schemes of Rehabilitation of almost all over Districts of Sindh are from PKR 2,200 Million to PKR 4,000 Million and previously PKR 600 Million was allocated for every District of Sindh but the procuring agency has regrouped all Schemes only to award the works/contracts to their chosen contractors and to avoid widely bidding competition.
7. One NIT No. TC/G-55/11/2019 was called by the XEN Provincial Highways Division Sukkur in which the Development schemes were regrouped and the same was challenged under CP No. D-81 of 2019 and the Honorable High Court directed the XEN to cancel the same as it is clear violation of Rights of Business.



Transparency International Pakistan Comments

Transparency International Pakistan has reviewed the allegations of the complainant, prima facie the allegations seem correct. Following are TI Pakistan comments;

1. SPPRA Rule 12 requires that the procuring agencies shall not package procurement plan and regroup the proposed procurements. Rule 12 is quoted below;

SPPRA Rule 12: Limitation on Splitting or Regrouping of Proposed Procurement.-

The procuring agency shall not split or package a procurement plan with the intention to shorten or facilitate the procurement process and approval mechanism, unless the procuring agency is satisfied that-

- a. Block acquisition of goods, services or works will unnecessarily hold up available resources.
- b. Technical reasons indicate that splitting or packaging will improve the quality.
- c. The impact of weather, geographical spread on certain procurement particularly in case of works contract will affect its execution with regard to quality and delivery schedule.

Provided that any splitting or packaging shall be made part of the revised procurement plan and uploaded on the Authority's website as well as on the website of the procuring agency, if functional.

2. The subject prequalification will shorten the bidding Competition which is a clear violation of SPPRA Rule 13, quoted below;

SPPRA Rule 13: Specifications (1) Specifications shall allow the widest possible competition and shall not favour any single contractor or supplier nor put others at a disadvantage. Specifications shall be generic and shall not include references to brand names, model numbers, catalogue numbers or similar classifications. However, if the procuring agency is convinced that the use of a reference to a brand name or a catalogue number is essential to complete an otherwise incomplete specification, such use or reference shall be qualified with the words "or equivalent".

(2) Procurement of used or reconditioned equipment, plant or machinery is not permissible in any case whatsoever.

3. Regrouped Schemes of Rehabilitation of almost all over Districts of Sindh imposes discriminatory and difficult conditions which results in unfair bidding, in violation of SPPRA Rule 44, quoted below;

SPPRA Rule 44: Discriminatory and difficult conditions.-

"Save as otherwise provided, no procuring agency shall introduce any condition which discriminates among bidders. In ascertaining the discriminatory nature of any condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or service to which that particular procurement is related".

Transparency International Pakistan Recommendations

Transparency International Pakistan requests Chief Minister Sindh to examine the complaint in light of SPPRA Rules 2010 and if found correct, direct the concerned department to re-advertise invitation to prequalification for Loan No. 4279- PAK (COL), Emergency Flood Assistance Project, ADB/ EFAP/ WSD/PQ-CI/ 2023, in compliance with SPPRA Rules 2010.



Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption, and achieve Zero tolerance against corruption

With Regards,

(Advocate Daniyal Muzaffar)
Trustee/Legal Advisor
Transparency International Pakistan

Copies forwarded for the information with request to take action under their mandate to:

1. PSPM, PM House, Islamabad
2. Chief Secretary, Government of Sindh, Karachi
3. Secretary, Works and Services Department, Govt. of Sindh, Karachi
4. Chairman, National Disaster Management Authority (NDMA), Islamabad
5. Chairman, National Accountability Bureau, Islamabad
6. MD SPPRA, SPPRA, Karachi.
7. Registrar, High Court of Sindh, Karachi
8. President, Asian Development Bank, Manila

Note:

This is to clarify that Transparency International Pakistan is not a complainant, it acts as a whistleblower and operate under Article 19-A, of the Constitution of Pakistan which gives the right to public to know how government is being run by public officers. Article 19-A makes the right to access of information pertaining to a public authority a fundamental right, Justice Syed Mansoor Ali Shah in his landmark judgment in case of Ataulah Malik v. Federation of Pakistan includes following order.

Right to information is another corrective tool which allows public access to the working and decision making of the public authorities. It opens the working of public administration to public scrutiny. This necessitates transparent and structured exercise of discretion by the public functionaries. Article 19-A empowers the civil society of this country to seek information from public institutions and hold them answerable. PLD 2010 Lahore 605.



OFFICE OF THE
PROJECT DIRECTOR
EMERGENCY FLOOD ASSISTANCE PROJECT
3RD FLOOR, RPROVINCIAL HEALTH BUILDING, BEHIND SHAHBAZ
BUILDING BLOCK A, HYDERABAD.
Phone / Fax No: 0229201230
NO:PD/PQ/EFAP/60
DATED: 23.02.2023

Invitation for Prequalification

Date:	28.02.2023
Loan No. and Title:	4279-PAK (COL): EMERGENCY FLOOD ASSISTANCE PROJECT
Contract No. and Title: ADB/EFAP/WSD/PQ-CI /2023	Prequalification of Bidders for Rehabilitation and Improvement of Roads Including Construction of Damaged Culverts and Bridges Spread in Province of Sindh for Category-I (Small Package Contracts i.e., Estimated Cost up to PKR 2,200 million)
Contract No. and Title: ADB/EFAP/WSD/PQ-CII /2023	Prequalification of Bidders for Rehabilitation and Improvement of Roads Including Construction of Damaged Culverts and Bridges Spread in Province of Sindh for Category-II (Medium Package Contracts i.e., Estimated Cost up to PKR 3,200 million)
Contract No. and Title: ADB/EFAP/WSD/PQ-CIII /2023	Prequalification of Bidders for Rehabilitation and Improvement of Roads including Construction of Damaged Culverts and Bridges Spread in Province of Sindh for Category-III (Large Package Contracts i.e., Estimated Cost upto PKR 4,000 million)

1. The Islamic Republic of Pakistan, Government of Sindh has received financing from the Asian Development Bank (ADB) toward the cost of Post-floods (2022) Works of Roads Rehabilitation under Emergency Flood Assistance Project (EFAP) – Sindh Works & Services Department Component. Part of this financing will be used for payments under the Contract named above. The eligibility rules and procedures of ADB will govern the prequalification and the bidding process.

2. The Works and Services Department, Sindh (the "Employer") intends to prequalify firms for following three categories:

Category 1:

Prequalification of Bidders for Rehabilitation and Improvement of Roads including Construction of Damaged Culverts and Bridges Spread in Province of Sindh for Category-I (Small Package Contracts i.e., Estimated Cost up to PKR 2,200 million)

Category 2:

Prequalification of Bidders for Rehabilitation and Improvement of Roads including Construction of Damaged Culverts and Bridges Spread in Province of Sindh for Category-II (Medium Package Contracts i.e., Estimated Cost up to PKR 3,200 million)

Category 3

Prequalification of Bidders for Rehabilitation and Improvement of Roads including Construction of Damaged Culverts and Bridges Spread in Province of Sindh for Category-III (Large Package Contracts i.e., Estimated Cost upto PKR 4,000 million)

3. Only eligible Applicants with the following key qualifications defined in the Prequalification Document may participate in this prequalification.

➤ National Applicant (either individually or as a partner in a Joint Venture) should be registered with Pakistan Engineering Council (PEC) and shall have a valid registration Certificate.

1. For Category 1: The National Applicant shall be registered in Category C-1 and above with Specialization in CE-01 and CE-02 for the calendar year 2022.
2. For Category 2 & 3: The National Applicant shall be registered in Category C-B and above with Specialization in CE-01 and CE-02 for the calendar year 2022.

4. It is expected that the Invitation for Bids will be made in the month of **May 2023**.

5. To obtain further information and inspect the Prequalification Document, interested eligible Applicants should contact:

Mr. Ayub Junejo
Project Director / Chief Engineer, (FA & SP)
Project Management Unit (PMU)
Emergency Flood Assistance Project
Works and Services Department
Government of Sindh
Address: 3rd Floor, Provincial Health Works
Behind Shahbaz Building A Block Hyderabad
Tel: +92-(022)-9201230
Fax: +92-(022)-9201230
Email: pd@spripwsd.gos.pk

6. To purchase the Prequalification Document, eligible Applicants should write to address above requesting the Prequalification Document for the project mentioned above.

Pay a non-refundable fee of PKR 5,000/- (Pak Rupees Five Thousand only) by Pay Order / Demand Draft in favour of Project Director/Chief Engineer (FA&SP), PMU, WSD Sindh.

The document will be sent by courier on the given address of the applicant. No liability will be accepted for loss or late delivery.

7. Pre Submission Meeting will be held on **09.03.2023 at 12:00 pm** in the office of undersigned at below mentioned address.

8. Deliver your Application to:

Project Director/ Chief Engineer, (FA & SP)
Project Management Unit (PMU)
Emergency Flood Assistance Project (EFAP)
Works and Services Department (WSD)
Government of Sindh
Address: 3rd Floor, Provincial Health Works
Behind Shahbaz Building A Block Hyderabad
Tel: +92-(022)-9201230
Fax: +92-(022)-9201230
Email: pd@spripwsd.gos.pk

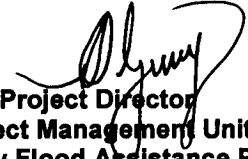
On or before 1600 Hours, 28.03.2023.

The Employer reserves the right to accept or reject late Applications.

9. The Employer will not be responsible for any costs or expenses incurred by Applicants in connection with the preparation or delivery of their Applications.

10. The Employer will notify all Applicants in writing of the names of those Applicants who have been prequalified.

Name of Office: Project Director/ Chief Engineer, (FA & SP).
Address: Project Management Unit (PMU)
Emergency Flood Assistance Project
Works and Services Department
Government of Sindh
Address: 3rd Floor, Provincial Health Works
Behind Shahbaz Building A Block Hyderabad
Tel: +92-(022)-9201230
Fax: +92-(022)-9201230
Email: pd@spripwsd.gos.pk


Project Director
Project Management Unit
Emergency Flood Assistance Project
Works & Services Department, Sindh

Copy forwarded for favour of information to:

- The Secretary to Government of Sindh, Works & Services Department, Karachi
- The Secretary to Government of Sindh, Finance Department, Karachi
- Secretary IT Department Govt of Sindh Secretariat No: 6 Karachi along with USB for placing on website www.sindh.gov.pk.
- The Director General, National Accountability Bureau (NAB), Karachi.
- PS to Minister Works & Services Department, Government of Sindh.
- PS to Chairman, P&D Board, Government of Sindh, Karachi.
- Director (A&F) Sindh Public Procurement Regulatory Authority, Government of Sindh, Karachi.
- Director Information (Advertisement) Public Relation Department, Govt of Sindh Block 96 Karachi along with six copies of Invitation For Prequalification (IFP) for publication in three (3) leading NEWS Papers of English, Urdu and Sindh preferably in **Daily Dawn, Daily Express, Daily Jang, Daily Kawish.**
- The Country Director, Asian Development Bank, Pakistan Resident Mission, Islamabad.